

AMENDED IN SENATE JANUARY 10, 2012

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 359

Introduced by Senator Hernandez

February 15, 2011

An act to amend Sections ~~113953.3 and 113973~~ 113818, 113953.3, 113973, 114047, and 114325 of, and to add Section 113975 to, the Health and Safety Code, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 359, as amended, Hernandez. Food facilities: hand washing.

Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for *mobile food facilities* and retail food facilities, as defined. The law requires the State Department of Public Health to adopt regulations to implement and administer those provisions, and delegates primary enforcement duties to local health agencies. A violation of any of these provisions is punishable as a misdemeanor.

The code requires food employees to report to the person in charge of a food facility when a food employee has a lesion or wound that is open or draining unless specified conditions to cover or protect the lesion are met. The code requires all employees to wash their hands in specified instances, including before donning gloves for working with food.

The code also requires gloves to be worn when contacting food and food-contact surfaces under specified conditions, including when the employee has any cuts, sores, or rashes. Gloves are required to be changed, replaced, or washed as often as hand washing is required.

This bill would revise requirements in connection with glove use and hand washing. This bill would revise the definition of “limited food preparation,” and authorize a local enforcement agency to approve temporary alternative storage methods and locations. By imposing new duties upon local agencies, and expanding the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~This bill would require hands to be washed before initially donning gloves and before donning gloves after specified instances where gloves were required to be changed or replaced. The bill would prohibit single-use gloves from being washed. The bill would also prohibit an employee who has a lesion or wound that is open or draining from handling food and would require a food employee who has any cuts, sores, rashes, lesions, or wounds to cover or protect the lesion, as specified. By imposing new duties upon local agencies and expanding the definition of a crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 113818 of the Health and Safety Code is*
2 *amended to read:*

3 113818. (a) “Limited food preparation” means food preparation
4 that is restricted to one or more of the following:

5 (1) Heating, frying, baking, roasting, popping, shaving of ice,
6 blending, steaming or boiling of hot dogs, or assembly of
7 nonprepackaged food.

8 (2) Dispensing and portioning of nonpotentially hazardous food.

9 (3) Holding, portioning, and dispensing of any foods that are
10 prepared for satellite food service by the onsite permanent food
11 facility or prepackaged by another approved source.

12 (4) Slicing and chopping of food on a heated cooking surface
13 during the cooking process.

14 (5) Cooking and seasoning to order.

15 (6) Preparing beverages that are for immediate service, in
16 response to an individual consumer order, that do not contain
17 frozen milk products.

18 (b) “Limited food preparation” does not include any of the
19 following:

20 (1) Slicing and chopping unless it is on the heated cooking
21 surface.

22 (2) Thawing.

23 (3) Cooling of cooked, potentially hazardous food.

24 (4) Grinding raw ingredients or potentially hazardous food.

25 (5) Reheating of potentially hazardous foods for hot holding,
26 except for steamed or boiled hot dogs and tamales in the original,
27 inedible wrapper.

28 (6) ~~Hot~~ Except as allowed in paragraph (3) of subdivision (a),
29 hot holding of nonprepackaged, potentially hazardous food, except
30 for roasting corn on the cob roasting corn on the cob, steamed or
31 boiled hot dogs, and tamales in the original, inedible wrapper.

32 (7) Washing of foods.

33 (8) Cooking of potentially hazardous foods for later use.

34 ~~SECTION 1.~~

35 *SEC. 2. Section 113953.3 of the Health and Safety Code is*
36 *amended to read:*

37 113953.3. (a) Except as specified in subdivision (b), all
38 employees shall thoroughly wash their hands and that portion, if

1 any, of their arms exposed to direct food contact with cleanser and
2 warm water by vigorously rubbing together the surfaces of their
3 lathered hands and arms for at least 10 to 15 seconds and
4 thoroughly rinsing with clean running water followed by drying
5 of cleaned hands and that portion, if any, of their arms exposed.
6 Employees shall pay particular attention to the areas underneath
7 the fingernails and between the fingers. Employees shall wash
8 their hands in all of the following instances:

9 (1) Immediately before engaging in food preparation, including
10 working with nonprepackaged food, clean equipment and utensils,
11 and unwrapped single-use food containers and utensils.

12 (2) After touching bare human body parts other than clean hands
13 and clean, exposed portions of arms.

14 (3) After using the toilet room.

15 (4) After caring for or handling any animal allowed in a food
16 facility pursuant to this part.

17 (5) After coughing, sneezing, using a handkerchief or disposable
18 tissue, using tobacco, eating, or drinking.

19 (6) After handling soiled equipment or utensils.

20 (7) During food preparation, as often as necessary to remove
21 soil and contamination and to prevent cross-contamination when
22 changing tasks.

23 (8) When switching between working with raw food and
24 working with ready-to-eat food.

25 (9) Before dispensing or serving food or handling clean
26 tableware and serving utensils in the food service area.

27 (10) After engaging in other activities that contaminate the
28 hands.

29 (11) Before initially donning gloves for working with food
30 ~~and before donning gloves to replace gloves that were changed or~~
31 ~~replaced due to the circumstances described in paragraphs (2) to~~
32 ~~(10), inclusive~~ *when changing gloves as required in Section*
33 *113973. Handwashing is not required between glove changes when*
34 *no contamination of the gloves or hands has occurred.*

35 (b) If approved and capable of removing the types of soils
36 encountered in the food operations involved, an automatic
37 handwashing facility may be used by food employees to clean
38 their hands.

1 ~~SEC. 2.~~

2 SEC. 3. Section 113973 of the Health and Safety Code is
3 amended to read:

4 113973. (a) ~~Gloves~~—*Notwithstanding Section 113975,*
5 *single-use gloves* shall be worn when contacting food and
6 food-contact surfaces if the employee has any cuts, sores, rashes,
7 artificial nails, nail polish, rings (other than a plain ring, such as
8 a wedding band), uncleanable orthopedic support devices, or
9 fingernails that are not clean, smooth, or neatly trimmed.

10 (b) Whenever gloves, except single-use gloves, are worn, they
11 shall be changed, replaced, or washed as often as handwashing is
12 required by this part.

13 (c) If single-use gloves are used, single-use gloves shall be used
14 for only one task, such as working with ready-to-eat food or with
15 raw food of animal origin, used for no other purpose, and shall be
16 discarded when damaged or soiled, or when interruptions in the
17 food handling occur. Single-use gloves shall not be washed.

18 (d) Except as specified in subdivision (e), slash-resistant gloves
19 that are used to protect the hands during operations requiring
20 cutting shall be used only with food that is subsequently cooked
21 as specified in Section 114004, such as frozen food or a primal
22 cut of meat.

23 (e) Slash-resistant gloves may be used with ready-to-eat food
24 that will not be subsequently cooked if the slash-resistant gloves
25 have a smooth, durable, and nonabsorbent outer surface or if the
26 slash-resistant gloves are covered with a smooth, durable,
27 nonabsorbent glove, or a single-use glove.

28 (f) Cloth gloves may not be used in direct contact with food
29 unless the food is subsequently cooked.

30 ~~SEC. 3.~~

31 SEC. 4. Section 113975 is added to the Health and Safety Code,
32 to read:

33 113975. (a) Except as provided in subdivision (b), an employee
34 who has a lesion or wound that is open or draining shall not handle
35 food.

36 (b) ~~In addition to wearing gloves when contacting food and~~
37 ~~food-contact surfaces, a food employee who has a cut, sore, rash,~~
38 ~~lesion, or wound shall do all of the following: A food employee~~
39 ~~who has a cut, sore, rash, lesion, or wound is restricted from food~~
40 ~~handling unless the food employee complies with the following:~~

(1) If the lesion is located on the hand or wrist, an impermeable cover, such as a finger cot or stall shall protect the lesion. A single-use glove shall be worn over the impermeable cover.

(2) If the lesion is located on exposed portions of the arms, an impermeable cover shall protect the lesion.

(3) If the lesion is located on other parts of the body, a dry, durable, tight-fitting bandage shall cover the lesion.

SEC. 5. Section 114047 of the Health and Safety Code is amended to read:

114047. (a) Adequate and suitable space shall be provided for the storage of food.

(b) Except as specified in subdivisions (c) and (d), food shall be protected from contamination by storing the food in a clean, dry location, where it is not exposed to splash, dust, vermin, or other forms of contamination or adulteration, and at least six inches above the floor.

(c) Food in packages and working containers may be stored less than six inches above the floor on case lot handling equipment as specified under Section 114165.

(d) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to moisture.

(e) *Temporary alternative storage methods and locations may be approved by the local enforcement agency.*

SEC. 6. Section 114325 of the Health and Safety Code is amended to read:

114325. (a) Except on a mobile food facility that only utilizes the water for handwashing purposes, a water heater or an instantaneous heater capable of heating water to a minimum of 120°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine. On a mobile food facility that only utilizes the water for handwashing purposes, a *minimum one-half-gallon capacity* water heater or an instantaneous water heater capable of heating water to a minimum of 100°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine.

(b) ~~(1) Except as specified in paragraph (2), a~~ A water heater with a minimum capacity of ~~three~~ four gallons shall be provided for mobile food facilities *with one or more warewashing sinks.*

(c) A mobile food facility equipped with a three-gallon hot water heater that was approved prior to adoption of this section need not provide a four-gallon hot water heater.

~~(2) A minimum water heater capacity of one-half gallon shall be provided for mobile food facilities approved for limited food preparation.~~

~~SEC. 4.~~

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.